

McDermott
Will&Emery

August 2, 2004

Civil Clerk's Office
United States District Court
District of Massachusetts
One Courthouse Way, Suite 2300
Boston, MA 02210

Re: Savings Bank Employees Retirement Association v. East Boston Savings Bank, et al.

Dear Sir or Madam:

Enclosed for filing please find Defendants' Answer to Plaintiff's Complaint.

Kindly acknowledge the receipt and filing of the above documents by date-stamping the enclosed copy of this letter and returning it to me by messenger.

Thank you for your assistance and cooperation. If you have any questions or problems, please do not hesitate to contact me at 617-535-4475.

Sincerely,

Nicole A. Colby
Nicole A. Colby

NAC
Enclosures

Cc: Arthur G. Telegen (via Hand Delivery)
Andrew C. Liazos (with enclosures)
James J. Marcellino (without enclosures)
Daniel A. Curto (without enclosures)

BST99 1419030-1.069465.0011

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SAVINGS BANK EMPLOYEES)
RETIREMENT ASSOCIATION,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION
) NO. 04-11545 EFH
EAST BOSTON SAVINGS BANK;)
BELMONT SAVINGS BANK;)
CAPE COD FIVE CENTS)
SAVINGS BANK;)
BRIDGEWATER SAVINGS)
BANK; SOUTH SHORE SAVINGS)
BANK; and WORONOCO)
SAVINGS BANK,)
)
 Defendants.)
)
)

DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES

Defendant East Boston Savings Bank, et al. ("EBSB"), hereby respond to the numbered paragraphs of plaintiff's ("SBERA's") Complaint as follows:

1. Admitted.
2. Admitted.
3. Defendants admit the first sentence of Paragraph 3. Defendants deny the last two sentences of Paragraph 3.
4. Defendants admit that all of the Defendant Banks were aware of the resolution. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second sentence of Paragraph 4. Defendants deny the last sentence of Paragraph 4.
5. Admitted.
6. Defendants admit SBERA has demanded fees as set forth in Paragraph 6.

7. Defendants admit that they have not paid the fees.

Count I

8. The defendants reallege and incorporate by reference as if fully set forth herein their responses to the allegations contained in Paragraphs 1 through 7.
9. Defendants deny the allegations set forth in Paragraph 9.

Count II

10. The defendants reallege and incorporate by reference as if fully set forth herein their responses to the allegations contained in Paragraphs 1 through 9.
11. Defendants deny the allegations set forth in Paragraph 11.
12. Defendants deny the allegations set forth in Paragraph 12.

AFFIRMATIVE DEFENSES

1. Plaintiff's purported assessment violates applicable laws.
2. Plaintiff's purported assessment constitutes an impermissible penalty that does not reasonably estimate the potential damages resulting from defendants' withdrawal from the SBERA plan.
3. Plaintiff's claim for violation of Chapter 93A is improvidently pled.
4. Plaintiff's claims are barred, or limited by, the Employee Retirement Income Security Act (ERISA).

Respectfully submitted,

By its attorneys,



James J. Marcellino (BBO #318840)

Andrew C. Liazos (BBO#556506)

Daniel A. Curto (BBO # 639443)

McDermott Will Emery, LLP

28 State Street

Boston, MA 02109

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(617) 535-3800 (Fax)

CERTIFICATION OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party ~~by mail~~/by hand.

Date: 2/2/04 Acute O Colby